

ESTTA Tracking number: **ESTTA271900**Filing date: **03/13/2009**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Double Diamond Distribution Ltd.		
Entity	Corporation	Citizenship	Canada
Address	2501 Jasper Avenue Saskatoon, SK S7J 2K2 CANADA		

Attorney information	Michael G. Frey Greenebaum Doll & McDonald PLLC 255 East Fifth Street 2900 Chemed Center Cincinnati, OH 45202 UNITED STATES mgf@gdm.com Phone:513-455-7678
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Registration Subject to Cancellation

Registration No	3131359	Registration date	08/15/2006
Registrant	Doggers Incorporated 2019 Hacienda Circle El Cajon, CA 92020 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 2004/04/24 First Use In Commerce: 2004/05/24 All goods and services in the class are cancelled, namely: Clothing, namely, t-shirts, hats, shorts, and t-shirt dresses
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Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14

Attachments	DOGGERS Petition.PDF (5 pages)(583176 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by USPS Express Mail Post Office to Addressee on this date.

Signature	/michael.g.frey/
Name	Michael G. Frey

Date	03/13/2009
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of

Registration No. : 3,131,359
Registrant : Doggers Incorporated
Mark : DOGGERS and Design
Issue Date : August 15, 2006

Double Diamond Distribution Ltd.

Petitioner,

v.

Doggers Incorporated

Registrant.

Cancellation No. _____

PETITION FOR CANCELLATION

Double Diamond Distribution Ltd. ("Petitioner"), a corporation organized under the laws of Canada, having a principal place of business at 2501 Jasper Avenue Saskatoon, Saskatchewan S7J 2K2, Canada, believes it is being damaged by Registration No. 3,131,359 and hereby petitions to cancel said registration pursuant to Section 14 of the Trademark Act of 1946 (15 U.S.C. § 1064) on the following grounds:

1. Petitioner is the owner of pending application Serial No. 77/287,114 (the "Application"), seeking registration of the mark DOGGERS in International Class 25 in connection with "footwear."

2. The mark DOGGERS and Design (shown below) in Registration No. 3,131,359 (the "Registration"), which issued August 15, 2006, on the Supplemental Register, has been cited under Section 2(d) of the Trademark Act as a basis for refusing registration of Petitioner's mark that is the subject of the Application.



3. The Registration is a registration of the DOGGERS and Design mark in International Class 25 in connection with "clothing, namely, t-shirts, hats, shorts, and t-shirt dresses." The owner of record of the Registration is Doggers Incorporated ("Registrant"), a California corporation with an address of 2019 Hacienda Circle, El Cajon, California 92020.

The Mark In Registration No. 3,131,359 Has Been Abandoned

4. On information and belief, Registrant has abandoned the DOGGERS and Design mark which is the subject of the Registration by discontinuing use of said mark with no intent to resume use.

Registration No. 3,131,359 Was Obtained Fraudulently

5. On information and belief, the Registration issued from a use-based application filed on May 11, 2004, in which the Registrant declared under oath that the mark was currently in use in commerce in connection with all of the goods recited in the application, namely "clothing, namely, t-shirts, hats, shorts, and t-shirt dresses;" that the mark was first used in

connection with the goods on April 24, 2004; and that the mark was first used in commerce in connection with such goods on May 24, 2004 [sic]. Reasonably relying on the truth of these material statements, the Trademark Office approved the mark for registration, resulting in the issuance of the Registration on August 15, 2006.

6. On information and belief, Registrant had not as of May 11, 2004, and has not at any time subsequent thereto, used the DOGGERS and Design mark on or in connection with all of the goods listed in the Registration.

7. On information and belief, Registrant knew or should have known that it was not using the mark on or in connection with all of the goods recited in its application filed May 11, 2004, at the time it signed the declaration that the mark was in use with all of the recited goods.

8. Accordingly, Registrant's acts in applying for registration of its mark constitute fraud on the Trademark Office.

9. Petitioner has been and will continue to be damaged by the continued existence of Registration No. 3,131,359 in that Petitioner will be unable to obtain registration of the mark in its Application on the Principal Register and to obtain the procedural and evidentiary advantages and presumptions that result therefrom so long as the registration sought to be cancelled herein is maintained, despite the abandonment of the DOGGERS and Design mark by Registrant, and despite the fraudulent acts of Registrant in obtaining the Registration.

WHEREFORE, for the foregoing reasons, Petitioner respectfully requests that the Trademark Trial and Appeal Board cancel U.S. Registration No. 3,131,359.

Petition for Cancellation
In re Registration No. 3,131,359
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Please charge the filing fee of \$300 and any additional fees to Greenebaum Doll & McDonald PLLC's Deposit Account, No. 50-2904, the account of Petitioner's counsel noted below.

Please direct all correspondence to Michael G. Frey, Esq., at Greenebaum Doll & McDonald PLLC, 2900 Chemed Center, 255 East Fifth Street, Cincinnati, Ohio 45202-4728, and all calls to the same at (513) 455-7678.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Michael G. Frey", is written over a horizontal line.

Michael G. Frey, Esq.
Louis K. Ebling, Esq.
Greenebaum Doll & McDonald PLLC
Attorneys for Petitioner
2900 Chemed Center
255 East Fifth Street
Cincinnati, Ohio 45202-4728
Telephone: (513) 455-7678
Facsimile: (513) 455-8500
mgf@gdm.com

Date: March 13, 2009

CERTIFICATE OF FILING

I certify that this PETITION FOR CANCELLATION is being submitted electronically to the Trademark Trial and Appeal Board at the United States Patent and Trademark Office on this 13th day of March 2009.

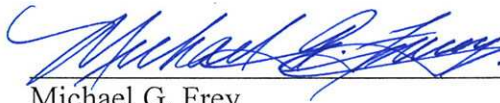

Michael G. Frey

CERTIFICATE OF SERVICE

I certify that this PETITION FOR CANCELLATION is being served on the following via the U.S Post Office's Express Mail service this 13th day of March 2009:

John Alumit, Esq.
Patel and Alumit, P.C.
Suite 360
16830 Ventura Blvd.
Encino California 91436

Attorney of Record for Registrant


Michael G. Frey